

## **REMARKS**

This Response is submitted in reply to the Office Action dated July 24, 2008 and in conjunction with the enclosed Request for Continued Examination. Applicant has amended claims 1, 3, 24, 37, 39, 47, 48, 50, 53, 55, 60, 62, 63, 64, 69, 71, 73, 78, 80, 82, 87, 88, 89 and 93. No new matter has been added by these amendments for the reasons provided below. Claims 13-23 and 25-36 remain canceled. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees due in connection with the filing of this Response.

### **Rejection under 35 U.S.C. §112**

The Office Action rejected claims 60, 69, 78, 87 and 93 under 35 U.S.C. §112, first paragraph. The Office Action stated the following:

Claims 60, 69, 78, 87 and 93 recite limitations drawn to the steps executed by a processor during play of a bonus game, including 'display at least two selectable symbols, receive an input corresponding to a selection of one of the selectable symbols, operate the bonus game, the bonus game including an interaction between the at least two selectable symbols...', that are not supported by applicant's specification as originally filed. While applicant's specification does disclosing the invention may include a bonus game (Applicant's specification P. 13, line 26 - P. 14, line 32), there is no description of the claimed bonus game steps.

Applicant has amended claims 60, 69, 78, 87 and 93 to advance the prosecution of this application. Specifically, Applicant has amended dependent claim 60 to recite: "at least one instruction, which when executed by the at least one processor, causes the at least one processor to operate with the display device and the at least one input device to: (i) determine the triggering event; (ii) operate the bonus game; and (iii) provide a bonus award as a result of a bonus award condition being satisfied during the operation of the bonus game."

Amended dependent claims 69, 78, 87 and 93 each includes certain elements similar to elements of amended dependent claim 60. At least paragraphs [0053] and

[0054] of Applicant's specification support the amendments to dependent claims 60, 69, 78, 87 and 93.

**Rejection under 35 U.S.C. §103(a)**

The Office Action rejected claims 1, 3-6, 9-11, 37, 39-42, 45-48, 52-54, 58, 59, 61-63, 67, 68, 70-72, 76, 77, 79-81, 85, 86, 88 and 92 ("Prior Claims") under 35 U.S.C. 103(a) as being unpatentable over Dickinson et al. (U.S. Patent No. 6,287,197; "Dickinson") in view of Tiberio (U.S. Patent No. 5,123,649).

Dickinson discloses a video game such as a coin operated video game, a hand-held video game, a microprocessor video game or a pc-driven video game. The Office Action recognized that Dickinson does not specifically disclose that the interface is chosen based upon a wager amount. Specifically, the Office Action stated the following:

Dickinson does not specifically disclose the primary game operable for one or more plays based upon placement of a wager which corresponds to one of a first wager [level] and a second wager level which is greater than the first wager level, nor does Dickinson specifically disclose the system receives an input associated with the placed wager, determines whether the placed wager corresponds to one of the first wager level and the second wager level, display the first game display interface if the placed wager corresponds to the first wager level, display the second display interface if the placed wager corresponds to the second wager level, operate the single play of the game, determine an outcome of the play, and indicate the determined outcome.

The Office Action relied upon Tiberio for disclosing the concept of changing the claimed interface based on a change in the wager level. Based on Applicant's review, Tiberio merely teaches the principle of increasing the payback percentage with increasing wager levels to incentivize the player to wager more. In the gaming industry, this principle was traditionally accepted as the only way to incentivize the player, so the operator would be required to sacrifice its "take" in order to increase volume. This can be equated to volume discount principles (i.e., realizing the same or greater profit by charging less for each individual unit and selling a larger volume of such units). In

operation, Tiberio's gaming machine requires the player to increase the player's wager to receive a pay schedule with an increased payout rate or average expected value. See Fig. 3 of Tiberio. As a result, the operator of Tiberio's machine must sacrifice the "hold" percentage of the game to increase the play volume.

Dickinson teaches away from combination with Tiberio. Dickinson discloses a coin-operated video game in which players try to achieve a high score. Dickinson is silent as to accepting multiple coin levels or wager levels. Traditional coin-operated games accept one coin level (e.g., a quarter) for each play of the game regardless of the game result. For example, for the same coin level, the player might advance through two levels of Dickinson's game or five levels of Dickinson's game. Without any disclosure in Dickinson to the contrary, Applicant respectfully submits that Dickinson's game operates like traditional coin-operated games in that the same "wager" or coin level is required for each play of the game. On the other hand, Tiberio's gaming machine attempts to incentivize a player to place higher wagers by providing increased payout rates for higher wagers. Dickinson's coin-operated video game, particularly the scoring system, would yield unpredictable results if Dickinson's video game were structured to accept multiple "wagers" or coin levels as taught by Tiberio. Moreover, absent improper hindsight, there is no apparent reason or motivation for one skilled in the art to modify Dickinson's video game scoring system to accommodate multiple coin levels or return coins to a player (i.e., as a payback percentage). At least for the reasons set forth above, Dickinson teaches away from combination with Tiberio, and Applicant respectfully submits that the proposed combination of Dickinson and Tiberio is improper.

Furthermore, even if the combination of Dickinson and Tiberio were proper, such combination does not disclose the claimed subject matter of the Prior Claims. The claimed subject matter incentivizes the player to increase the player's wager without requiring a change to the game's payout rate. In contrast to the proposed combination, a more desirable interface, not a higher payout rate, gives the player the incentive to increase the wager. The switch from one interface to another, according to the Prior Claims, does not require a change to the payout rate or the expected value of the game,

as opposed to the Office Action's proposed combination. Thus, unlike the proposed combination, the operator is not required to sacrifice the "hold" percentage of the game, which provides the operator more flexibility.

Accordingly, all of the prior claims are patentable over the proposed combination and in condition for allowance.

Nonetheless, to advance the prosecution of this application, Applicant has amended certain claims. At least paragraph [0049] and Figures 1A and 1B of Applicant's specification support the amendments to independent claims 1, 37, 47, 48 and 88.

Amended independent claim 1 recites: "operate the single play of the game, the operation of the single play involving at least one spin of a plurality of the reels."

Amended independent claim 37 recites: "operate the single play of the game, the operation of the single play involving at least one spin of a plurality of the reels."

Amended independent claim 47 recites: "operate the single play of the game, the operation of the single play involving at least one spin of a plurality of the reels."

Amended independent claim 48 recites: "operate the single play of the game, the operation of the single play involving at least one spin of a plurality of the reels."

Amended independent claim 88 recites: "provide any award associated with one of the first determined outcome and the second determined outcome, the award being based on the wager for the play of the game."

For the reasons provided above, Dickinson and Tiberio do not separately or collectively disclose the foregoing elements in combination with the other claimed elements.

For at least the reasons set forth above, independent claims 1, 37, 47, 48 and 88 (and their dependent claims) are patentable over the proposed combination of Dickinson and Tiberio and in condition for allowance.

The Office Action rejected claims 2, 12, 24, 38, 49, 55-57, 64-66, 73-75, 82-84, 89-91 under 35 U.S.C. §103(a) as being unpatentable over Dickinson and Tiberio further in view of Roffman et al. (U.S. Patent No. 6,375,568; "Roffman"). The Office Action stated that "Roffman discloses that each game theme, or interface, has a

different pay table (col. 8, lines 60-61; Table IB and Table IIB), and further that the paytables have payouts yielding different expected values (as shown in Tables IB and IIB)." However, Roffman does not remedy the deficiencies of the proposed combination of Dickinson and Tiberio set forth above. Therefore, the proposed combination of Dickinson, Tiberio and Roffman does not anticipate or render obvious amended independent claims 1, 37, 48 or 88 (or their dependent claims).

The Office Action rejected claims 7, 8, 43, 44 and 51 under 35 U.S.C. §103(a) as being unpatentable over Dickinson and Tiberio (US 5,123,649) further in view of Nakagawa et al. (US 6,168,519; "Nakagawa"). The Office Action stated that "Nakagawa discloses a gaming device wherein a player may select an interface having a plurality of different symbols, each visually different but functionally identical, for use in a game." However, Nakagawa does not remedy the deficiencies of the proposed combination of Dickinson and Tiberio set forth above. Therefore, the proposed combination of Dickinson, Tiberio and Nakagawa does not anticipate or render obvious amended independent claims 1, 37 or 48 (or their dependent claims).

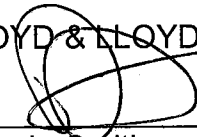
For the foregoing reasons, Applicant respectfully submits that all of the claims submitted with this Response are in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance, and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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Dated: October 15, 2008